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GENERAL COUNSEL
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In the Matter of)

DISTRIBUTION OF THE 1998 AND 1999)
CABLE ROYALTY FUNDS)

Docket No. 2001-8 CARP CD 98-99

**REPLY IN SUPPORT OF MOTION FOR ACCEPTANCE OF
SUPPLEMENTAL DECLARATION OF JAMES TRAUTMAN**

The Joint Sports Claimants ("JSC") submit this reply to the partial oppositions filed by the National Association of Broadcasters ("NAB") and Public Television Claimants ("PTV") to the JSC's motion for acceptance of the supplemental declaration of James Trautman. In response to JSC's original motion, NAB and PTV filed partial oppositions that objected not to the substance of Mr. Trautman's correction to his testimony¹, but to the inclusion of recalculations of the Bortz survey results in 1999 excluding the respondent that Mr. Trautman identified in his declaration.

JSC felt obligated to submit Mr. Trautman's declaration once he discovered that his testimony was based upon a mistaken understanding of the re-confirmation of survey responses that was undertaken. JSC wanted to ensure that neither the Panel nor any party mistakenly relied upon that testimony. In submitting Mr. Trautman's declaration, JSC were cognizant of the Panel's questioning of Mr. Trautman with regard to the effect on the survey of "throwing out" the responses of an aberrant cable operator. *See* Tr. 10330-31 (Trautman) ("JUDGE GULIN: So taking that one situation that clearly appeared to be some sort of an aberration, if you would have removed that from the survey, what effect

¹ Indeed, even before that correction was in the record, PTV relied upon it in their Proposed Findings. *See* PTV PFOF at 35, ¶164.

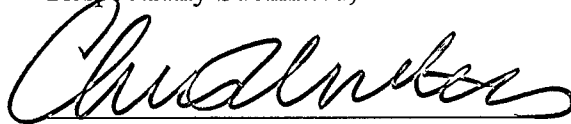
do you think it would have had if you have any sense at all what – THE WITNESS: Well, actually, I can say that with a fair amount of confidence, that because the respondent allocated in rough proportion to the overall allocation that we ended up with when we tabulated all of the survey results, I can say that there would have been virtually no affect.”). Accordingly, for the convenience of the Panel, Mr. Trautman provided a recalculation of both the original Bortz survey results and the adjusted Bortz survey results excluding that system.

Contrary to the assertions of both NAB and PTV, the submission of the recalculated results will not involve prejudice to the parties. Neither PTV nor NAB cross-examined Mr. Trautman with respect to the testimony elicited by the Panel that is discussed above. And, as NAB admits, the changes in the Bortz survey results are small. *See* NAB Opposition at 2.

PTV further suggests that the submission of such recalculated results would be improper because of the need for “adjustment by Public Television’s expert Dr. Fairley, who relied upon the original results.” PTV Opposition at 1-2. In this regard, however, PTV forgets that *Dr. Fairley himself* threw out this system when making his adjustments. *See* Tr. 9898 (Fairley) (“There was another system which showed a PTV share of five, but there was no educational signal listed. So you know, what do you do with that? So, not knowing what to do with it and I think it was past the time when I could easily find out, I took that [system] out.”). Accordingly, Mr. Trautman’s recalculation of the Bortz survey results (original and as adjusted) would simply make his results comparable to those already put in the record by Dr. Fairley. No new adjustments would be necessary, and no prejudice would occur.

For the foregoing reasons, and those stated in JSC's original motion, Mr. Trautman's supplemental declaration should be accepted into the record in its entirety.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert Alan Garrett", written over a horizontal line.

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August 26, 2003

CERTIFICATE OF SERVICE
Docket No. 2001-8 CARP CD 98-99

I hereby certify that copies of the foregoing Reply In Support of Motion For Acceptance of Supplemental Declaration of James Trautman was sent on August 26, 2003, by US Mail and facsimile, to the following parties:

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